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Supreme Court rolls back limits on corporate campaign spending

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WASHINGTON - A closely divided Supreme Court on Thursday swept away long-standing limits on campaign spending by unions and corporations.

In a much-anticipated 5-4 decision, the court's conservative majority declared that the limits on so-called independent expenditures by corporations violate First Amendment free-speech rights. The decision means more money can be spent on federal elections, including this year's midterm congressional elections.

"The government may regulate corporate political speech through disclaimer and disclosure requirements, but it may not suppress that speech altogether," Justice Anthony Kennedy wrote for the majority.

The decision in Citizens United v. Federal Election Commission does not affect direct corporate or union contributions to candidates. Those still will be banned. Nor does it cover spending from any of the thousands of political action committees set up by special interests.

Instead, the decision frees corporations and unions to spend from their own treasuries on ads and other advocacy efforts. It does so in several ways.

The decision strikes down part of a 2002 campaign finance law, which banned direct corporate spending on "electioneering communications" within 60 days of a general election and 30 days of a primary. The decision also reverses a 1990 Supreme Court decision that had upheld a broader federal ban on corporate campaign spending.

"Were the court to uphold these restrictions, the government could repress speech by silencing certain voices," Kennedy wrote.

Corporations and unions still will have to disclose their sponsorship of ads run close to an election.

Justice John Paul Stevens, however, writing for the four dissenters, warned that the ruling would harm the political system as well as the court's own reputation. In striking down certain corporate campaign spending limits, the court reversed its own precedents.

"The court's ruling threatens to undermine the integrity of elected institutions across the nation," Stevens wrote.

Advocates and skeptics of the election spending limits agreed that the court's 57-page majority opinion merits the term "landmark." They disagreed sharply, though, over who will benefit.

League of Conservation Voters President Gene Karpinski quickly warned that the ruling "will open the floodgates for oil companies like Exxon to spend vast sums of money to influence the outcome of federal elections." More sanguine, legal scholar Ilya Shapiro of the libertarian Cato Institute insisted that "more spending - more political communication - leads to better informed voters."

"This case will lead to more spending, and that's a good thing," agreed former Federal Election Commission member Bradley Smith.

Even the decision's release suggested history in the making. Kibitzers waited on the Supreme Court's steps, as justices convened in a rare special session. Stevens took the unusual step of reading aloud part of his 90-page dissent from the bench.

"The court's ruling dramatically enhances the role of corporations and unions, and the narrow interests they represent ... in determining who will hold public office," Stevens wrote.

Kennedy was joined by Chief Justice John G. Roberts and associate justices Samuel Alito, Antonin Scalia and Clarence Thomas.

Associate justices Ruth Bader Ginsburg, Stephen Breyer and Sonia Sotomayor joined Stevens in dissent.

Thursday's decision marked the latest and most successful challenge to the 2003 Bipartisan Campaign Reform Act, commonly known as the McCain-Feingold law for its two chief Senate sponsors, John McCain, R-Ariz., and Russ Feingold, D-Wis. In part, the law banned corporate-funded "electioneering communications" close to an election. These are messages that explicitly, or essentially, urge a vote for or against a candidate.

In addition to profit-making companies, the law covers nonprofit advocacy groups that are incorporated, such as the Sierra Club or the National Rifle Association.

In the 1990 case, Austin v. Michigan Chamber of Commerce, the court had upheld a law that banned corporations and unions from making independent expenditures using corporate funds to support or oppose a state candidate.

Citizens United v. Federal Election Commission started out as a smaller case.

Citizens United, a nonprofit conservative group, in 2007 produced "Hillary: The Movie," an unflattering portrait of then-Sen. Hillary Rodham Clinton that was timed to appear during her presidential campaign. A trial judge concluded it was fundamentally a campaign device covered by the 2002 campaign finance reform law.

The case's implications grew last March, when Deputy Solicitor General Malcolm Stewart said the government could "prohibit publication of a book using the corporate treasury funds." Stunned Supreme Court justices ordered a second oral argument in September that broadened the case to a potential overturning of the corporate spending ban.

"If the First Amendment has any force, it prohibits Congress from fining or jailing citizens, or associations of citizens, for simply engaging in political speech," Kennedy wrote.
